
By: **Allegany County Delegation**

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CHAPTER _____

1 AN ACT concerning

2 **Department of the Environment - Open-Pit Strip Mining - Application for**
3 **Permit**

4 FOR the purpose of requiring the Department of the Environment to review an
5 application for an open-pit mining permit in a timely manner; requiring the
6 Department to take a certain action for a permit within certain time periods for
7 a new permit, certain permit revisions, or a certain ~~updated~~ revised application;
8 authorizing the Department to provide for a certain extension for up to a certain
9 period by providing certain notice to an applicant prior to certain dates; and
10 generally relating to the application process for an open-pit strip mining permit.

11 BY repealing and reenacting, without amendments,
12 Article - Environment
13 Section 15-501(a), (g), (n), and (t)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Environment
18 Section 15-505(d)
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

2 15-501.

3 (a) In this subtitle the following words have the meanings indicated.

4 (g) "Department" means the Department of the Environment.

5 (n) (1) "Open-pit mining", "strip mining", and "surface coal mining" are
6 terms used interchangeably in this subtitle to mean the mining or recovery of
7 bituminous coal by removing the strata or material which overlies or is above the coal
8 deposit or seam in its natural condition, or any other recovery of coal by methods
9 other than deep-mining, and land affected by such activities.

10 (2) These terms include methods such as contour, strip, auger, mountain
11 top removal, box cut, open-pit, and area mining, the use of explosives and blasting,
12 and in situ distillation or retorting, leaching or other chemical or physical processing,
13 and the cleaning, concentrating, or other processing or preparation, loading of coal at
14 or near the mine site.

15 (3) "Open-pit mining", "strip mining", or "surface coal mining" do not
16 include the incidental extraction of coal at a level that does not exceed within any
17 calendar year 16 2/3 percent of the total cumulative production of coal and other
18 minerals removed from a mining area for purposes of bona fide sale or reasonable
19 commercial use.

20 (t) "Permit" means a permit to conduct open-pit mining pursuant to this
21 subtitle.

22 15-505.

23 (d) Procedures for review of an application shall be as follows:

24 (1) Notwithstanding any provision of the State Government Article,
25 public notice on pending applications provided in accordance with the provisions of
26 this subtitle shall be the only notice required by law.

27 (2) (i) Except as provided in subparagraph (iii) of this paragraph, upon
28 receipt of a complete application for a permit or permit revision the Department shall
29 require the applicant to publish an approved advertisement of the application
30 submitted under subsection (c) of this section.

31 (ii) The public notice required in subparagraph (i) of this paragraph
32 shall be published at least once a week for 4 successive weeks in a newspaper of
33 general circulation in the county of the proposed mining operation.

34 (iii) The public notice required in subparagraph (i) of this paragraph
35 may not be required for an application for permit revision that does not propose
36 significant alterations in a permit in accordance with the Department's regulations.

1 (3) The Department shall provide written notice of applications for
2 permits or permit revisions to any interested person who requests written notice.

3 (4) If a public informational hearing is requested, the Department shall
4 notify the applicant and any person who requests the hearing of the date, time, and
5 location of the hearing and shall publish the date, time, and location of the hearing in
6 a newspaper of general circulation in the area of the proposed operation. The
7 Department shall hold a public informational hearing on the application. A record of
8 the hearing shall be made and shall be available to the public.

9 (5) Any public informational hearing shall be at least 15 but not more
10 than 60 days after the Department provides public notice of the hearing. Members of
11 the public shall be provided an opportunity to comment on the application in writing
12 until the date of any hearing and copies of the application shall be available for public
13 inspection at the Department 15 days before any hearing.

14 (6) The Department shall review all aspects of the application, including
15 information pertaining to any other permit required from the Department for the
16 proposed strip mining operation IN A TIMELY MANNER.

17 (7) (I) Upon completion of the review required by paragraph (6) of this
18 subsection, the Department shall grant, require modification of, or deny the
19 application for a permit and notify the applicant and any participant to a public
20 informational hearing, in writing, of its decision:

21 1. ~~WITHIN 90 DAYS OF RECEIVING~~ AFTER THE DATE THE
22 DEPARTMENT DETERMINES THAT AN APPLICATION FOR A NEW PERMIT OR AN
23 APPLICATION FOR PERMIT REVISION THAT PROPOSES SIGNIFICANT ALTERATIONS IN
24 THE PERMIT IS COMPLETE; OR

25 2. ~~WITHIN 45 DAYS OF~~ AFTER RECEIVING:

26 A. ~~AN UPDATED A REVISED APPLICATION FOR A NEW~~
27 ~~PERMIT OR AN APPLICATION FOR A PERMIT REVISION THAT PROPOSES SIGNIFICANT~~
28 ~~ALTERATIONS IN THE PERMIT AFTER A REQUEST FOR ADDITIONAL INFORMATION~~
29 ~~UNDER THIS PARAGRAPH; OR~~

30 B. AN APPLICATION FOR A PERMIT REVISION THAT DOES
31 NOT PROPOSE SIGNIFICANT ALTERATIONS IN THE PERMIT.

32 (II) The applicant for a permit shall have the burden of establishing
33 that the application is in compliance with all of the requirements of this subtitle and
34 the rules and regulations issued under this subtitle.

35 (III) THE DEPARTMENT MAY PROVIDE FOR ONE EXTENSION OF THE
36 DEADLINES IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR UP TO 30 DAYS BY
37 NOTIFYING THE APPLICANT IN WRITING PRIOR TO THE EXPIRATION OF THE
38 ORIGINAL DEADLINES.

1 (8) The Department shall immediately notify the operator, local
2 governments, and any participants to a public informational hearing of the decision
3 by the Department. Within 30 days of notification, any person adversely affected by
4 the decision may request an adjudicatory hearing. The Department shall hold a
5 hearing in accordance with Title 10, Subtitle 2 of the State Government Article within
6 30 days of the request and render a decision within 30 days thereafter.

7 (9) Any applicant, or any person with an interest which is or may be
8 adversely affected, who has participated in the administrative proceedings as an
9 objector, and who is aggrieved by the decision of the Department, or if the
10 Department fails to act within the time limits specified in this subtitle, shall have the
11 right to judicial review in accordance with § 10-222 of the State Government Article.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2003.